

## REMARKS

Claims 1-12 are pending in the application, claims 1-12 stand rejected. Claim 5 has been amended. Claims 1-12 are now pending in the case.

Claim 5 has been rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants have carefully reviewed the rejected claims and have corrected the noted deficiencies. In view of the above amendments, Applicants believe that the claims now satisfy the statutory requirements of 35 U.S.C. § 112, second paragraph.

Claims 1, 3, 5, 6, 10 and 11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Glassman (U.S. 4,758,240) Applicants respectfully traverse.

The present invention as defined in claim 1 is directed to a sanitary napkin for use by a woman for feminine hygiene and adapted to be worn in an undergarment, comprising a main body portion having a liquid permeable body faceable cover layer, a liquid impermeable garment faceable barrier layer, an absorbent element therebetween, the main body portion further having first and second longitudinal edges opposite each other defining a width dimension, a central longitudinal axis parallel to the longitudinal edges, first and second transverse edges opposite each other defining a length dimension;

a central region having first and second distal ends opposite each other defining a length that is sufficient to cover the woman's labia majora in use;

a first end region, extending from the first distal end of the central region to the first transverse edge and being adapted to cover at least a portion of the woman's mons pubis in use;

a second end region, extending from the second distal end of the central region to the second transverse edge and being adapted to cover at least a portion of the woman's posterior perineum in use; and

at least two longitudinally extending hinges located substantially within the center region adjacent each longitudinal edge between the central longitudinal axis and the first and second longitudinal edges, respectively, each hinge adapted to provide a longitudinally extending preferential bending axis, said hinges being spaced apart along at least a portion of their length, wherein at least one hinge has a radius of curvature and an adjacent hinge is substantially straight.(emphasis added)

As previously discussed in response to the previous Office Action, Glassman teaches a menstrual pad or incontinent pad having a multitude of relatively deep spaced apart channels which as disclosed as increasing the lateral compressibility of the marginal surfaces of the pad. As shown in the Figures, the channels are not confined to a center region of the pad as defined in Applicant's present pending claims, but instead extend into the transverse end regions of the pad. The Patent Office alleges that a "substantial part of the hinges are located within the center region, therefore...Glassman does disclose this limitation." This position ignores Applicants' express definitions of center region, first end region and second end region and requirement that the two longitudinally extending hinges be located substantially within the center region. Clearly the channels in Glassman extend into the transverse end regions of the disclosed sanitary pads, and would not be considered by a person skilled in the art to be located substantially within the center region of the napkin.

In addition as previously discussed, the curved channels as disclosed at column 4, lines 49 to 58 and as illustrated in Figures 2, 5, 7 and 12 terminate at the longitudinal edges of the pad. This is clearly contrary to the express claim limitations that the hinges be adjacent to and between the central longitudinal axis and the longitudinal edges. The Patent Office in its current Office Action has failed to address this express claim limitation and thus has tacitly acknowledged that Glassman fails to disclose or fairly suggest this expedient. In view of the

Serial No. 09/746,264

foregoing, Applicants respectfully submit that the present claimed invention is not anticipated by the cited reference.

In addition to the foregoing, Applicants respectfully submit that Glassman fails to disclose the expedient of forming hinges as alleged by the Patent Office. To the contrary, Glassman teaches forming grooves or spot depressions that are adapted to provide lateral compression of the pad and do not permit "down-folding of the napkin" (see column 5, lines 28 to 31). Since the grooves provide only lateral compression and do not permit down-folding of the napkin, it is respectfully submitted that the grooves are not hinges as contemplated by Applicants' present claimed invention. The Patent Office alleges that Figure 8 shows that the grooves "allow the sides to fold upwards." Applicants have carefully reviewed Figure 8 and respectfully disagree with this position. Glassman specifically discloses, at column 4, lines 35-39 that Figures 7-8 illustrate that when the sanitary pad is in its in use position that both lateral sides are compressed towards the center. There is no disclosure, nor does the Figure itself show the sides pivoting upward at a hinge as alleged by the Patent Office. Should the Patent Office persist with its present position, Applicants respectfully request support for its position that Figure 8 shows the sides folding upward in use. In the absence of such support, the present rejection should be withdrawn.

Claims 2, 4, 7, and 12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Glassman. Applicants respectfully traverse.

As acknowledged by the Patent Office, Glassman fails to disclose or suggest a straight hinge being towards the outside of the napkin and the curved hinge being towards the inside of the napkin but nevertheless maintains that it would have been obvious to modify Glassman to provide this orientation of hinges. This position is completely unsupported by the art of record and accordingly the present rejection is improper. As noted above, the grooves in the Glassman patent are not intended to act as hinges but instead provide lateral compression to the pad. Further in this regard, Glassman requires the curved grooves to terminate at the longitudinal sides of the pad. Modifying the orientation of the hinges as suggested by the Patent Office would not permit the curved grooves to terminate at the longitudinal sides and

would accordingly negatively affect their ability to provide lateral compression. This would in effect render the invention inoperable for its intended purpose which is of course contrary to established principles of patent law. It is the position of the Patent Office that modifying the grooves in Glassman such that the grooves would not terminate at the longitudinal edges would in no way affect how these grooves would operate in use. That is, the Patent Office suggests that the grooves should be formed in a manner contrary to the express teaching in Glassman, and that this modification would have no effect on the lateral compressibility of the sanitary napkin. Applicants respectfully request support for the present position.

Glassman requires the grooves to terminate at the longitudinal side edges. It must be presumed that this express teaching was considered pertinent to the operation of the claimed invention and that a deviation of such teaching may result in a sanitary pad that would not function in the contemplated manner. Should the Patent Office persist with the present rejection, Applicants respectfully request that the Examiner provide some evidence to support its present position. In the absence of such support, the present rejection should be withdrawn.

Claims 8, and 9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Glassman in view of Coles (U.S. 5,672,642). Applicants respectfully traverse.

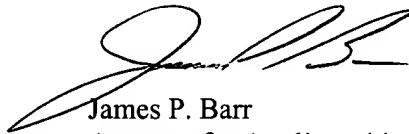
As acknowledged by the Patent Office, Glassman fails to teach or suggest the expedient of providing the sanitary napkin with end channels. However, it is the position of the Patent Office that Cole teaches applying wax to the absorbent core of a sanitary napkin and that the wax would inherently have a higher density than the core material thus forming a hinge in the end region of the napkin. Applicants respectfully disagree with this position. For the above reasons of record, Glassman fails to teach or fairly suggest the present claimed invention. In addition, applicants respectfully submit that the application of wax to an absorbent core as taught by Coles would not inherently create hinges as required by the present pending claims. The Patent Office has asserted that wax is denser than core material. Applicants respectfully challenge this assertion and request support by citation of a reference work that clearly indicates that all waxes inherently possess a density greater than core

Serial No. 09/746,264

material. In the absence of such evidence, Applicants respectfully request withdrawal of the present rejection.

In view of the foregoing, Applicants respectfully request reconsideration and allowance of the present pending claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Barr', with a stylized flourish extending from the end.

James P. Barr  
Attorney for Applicant(s)  
Reg. No. 32,882

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08903  
(732) 524-2826  
DATE: October 18, 2002

Serial No. 09/746,264

**Version with Markings to Show Changes**

**In the Claims:**

Please amend the following claim:

5. (Twice Amended) The sanitary napkin according to claim 1 wherein the hinges are formed from a material adapted to impart additional structural rigidity relative to an adjacent region in the absorbent [structure] element, the material being selected from the group consisting of a sphagnum-moss containing insert, a densified channel, a strip of polymeric foam, and combinations thereof.